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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,661	02/26/2002	Kelan C. Silvester	42390P13004	8664
8791	7590	06/14/2006	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			TRAN, PHUC H	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/085,661	SILVESTER, KELAN C.	
	Examiner	Art Unit	
	PHUC H. TRAN	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/8/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to because of the following informalities: “the areas surrounding” in lines 4-5 and “the additional audio channel” in lines 8-9 are insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: “the headset device” in line 5 is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 6 is objected to because of the following informalities: “the areas surrounding” in line 2 and “the headset device” in line 2 are insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: “the combine audio link” in line 2 and “the additional audio channel” in line 5 are insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 14 is objected to because of the following informalities: “the areas surrounding” in lines 4-5 and “the additional audio channel” in lines 8-9 are insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 16 is objected to because of the following informalities: “the headset device” in line 5 is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claims 22, and 27 are objected to because of the following informalities: “the areas surrounding” in line 2 is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim 20 is objected to because of the following informalities: should be depended on claim 19 not 9. Appropriate correction is required.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

3. The disclosure is objected to because of the following informalities, which is missing:
Appropriate correction is required.

Content of Specification

- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-36 of copending Application No.

10/092401. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

- For claims 1-25, the claims 1-36 of the copending Applicant No. 10/092401 discloses a method/apparatus comprising: detecting a plurality of audio sources within communication range of a wireless device (see claim 1);

establishing an audio link with a pre-determined number of audio source devices of the detected audio sources (see claim 6); and

providing, via one or more selected device audio channels, audio streams to a user of the wireless device, wherein the audio streams are from one or more of the predetermined number of audio source devices with an established audio link to the wireless device (see claim 6);

wherein detecting the audio sources further comprises: polling a surrounding area of the wireless device for audio sources within a pre-determined distance of the wireless device (see claim 5);

when an audio source is detected, initiating an authentication handshake with an audio source device of the detected audio source (see claim 5);

once the detected audio source device is authenticated, initiating creation of an audio link with the authenticated audio source device (see claim 6); and

wherein initiating the authentication handshake further comprises: determining a device ID of the detected audio source device (see claim 2);

determining, according to the device ID, whether the detected audio source device is a trusted device (see claim 6);

when the audio source device is a trusted device, authenticating the device to enable creation of an audio link between the detected audio source device and the wireless device (claim 6); and

otherwise, disregarding the detected audio source device (claim 6).

Applicant's claims 1-25, merely broaden the scope of the claims 1-36 of copending Application No. 10/092401 by eliminating the terms "storing the ID as an authentication initialization token for detected wireless device" of the copending application. It has been held that the omission of an element and its function is an obvious expedient if the remaining

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elements perform the same function as before. In re karlson, 136 USPQ 184 (CCPA). Also note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969); omission of a reference element whose function is not need would be obvious to one skilled in the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-3,5,7,8,11-13,15-18,21-24,26-31,and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Larsson et al. (U.S. Patent No. 6697638 B1).

- With respect to claims 1, 11,21,26,31, and 34-35 Larsson teaches a method comprising:
detecting a plurality of audio sources within communication range of a wireless device (col. 3, lines 26-31);

establishing an audio link with a pre-determined number of audio source devices of the detected audio sources (col. 3, lines 36-40); and

providing, via one or more selected device audio channels, audio streams to a user of the wireless device, wherein the audio streams are from one or more of the predetermined number of audio source devices with an established audio link to the wireless device (e.g. the car kit and handheld phone communicate to each other as Fig. 2).

- With respect to claims 2, 12,16, 22, and 27, Larsson also teaches wherein detecting the audio sources further comprises:

polling a surrounding area of the wireless device for audio sources within a pre-determined distance of the wireless device (col. 3, lines 60-67);

when an audio source is detected, initiating an authentication handshake with an audio source device of the detected audio source (col. 3, lines 33-35);

once the detected audio source device is authenticated, initiating creation of an audio link with the authenticated audio source device (col. 3, lines 36-40); and

repeating the polling, initiating and initiating until an audio link is established with the pre-determined number of the detected audio source devices (col. 4, lines 1-5).

- With respect to claims 3, 13, 23, and 28, Larsson further teaches wherein initiating the authentication handshake further comprises:

determining a device ID of the detected audio source device (col. 4, lines 15-20);

determining, according to the device m, whether the detected audio source device is a trusted device (col. 4, lines 28-30);

when the audio source device is a trusted device, authenticating the device to enable creation of an audio link between the detected audio source device and the wireless device (col. 4, lines 51-55); and

otherwise, disregarding the detected audio source device (col. 4, lines 30-31).

- With respect to claims 5, and 15, Larsson teaches wherein establishing an audio link further comprises: selecting an authenticated audio source device (col. 4, lines 8-14);

generating a communication connection with the authenticated audio source device to form an audio link between the headset device and the selected audio source device (col. 4, lines 15-20); and

repeating the selecting and generating until the pre-determined number of audio links are established (col. 4, lines 1-5).

- With respect to claims 7-8,17-18,24, and 29-30 Larsson also teaches wherein providing the audio sources to the user further comprises:

generating a device audio channel for each established audio link with a detected audio source device (e.g. Fig. 2 shows links between the master and slave);

receiving, from the user, a selection for one or more of the generated device audio channels; and

providing, via the one or more selected device audio channels, selected audio streams to the user via the wireless device.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Iwata (U.S. Patent No. 6871047) discloses radio communication connection destination specifying method.

Plasson et al. (U.S. Patent No. 6795688) discloses method and system for personal area network (PAN) degrees of mobility-based configuration.

Haartsen (U.S. Patent No. 6028853) discloses method and arrangement for radio communication.

Ganton (U.S. Patent No. 6973335) discloses system and method for personal area network (PAN) distributed global optimization.

Callaway et al. (U.S. Patent No. 6275500) discloses method and apparatus for dynamic control of talk groups in a wireless network.

Hall et al. (U.S. Patent No. 5898831) discloses interactive appliance security system and method.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuc Tran
Assistant Examiner
Art Unit 2616

P.t
6/8/06


CHI PHAM
ASSISTANT PATENT EXAMINER
6/9/06